

Background and Mission Statement for Expungement/Rights Restoration/Sealing (ERRRS) Subcommittee of the Criminal Justice Committee of the Ohio Criminal Sentencing Commission

Background

The Criminal Justice Committee of the OCSC decided that whether and how former offenders can have prior convictions expunged (and/or civil rights restored and/or records sealed) is a critical topic that merited study by a special subcommittee. The Expungement/Rights Restoration/Record Sealing (**ERRRS**) Subcommittee initially sought, with the help of the OCSC director, to (1) collect data on current practices under Ohio's existing statutes, and (2) identify and prioritize aspects of Ohio's existing statutory scheme that most needed reform.

The process of data collection and identification of problems reinforced a viewpoint suggested in prior Committee meetings – namely, that it might not be efficient or effective for the ERRRS Subcommittee to consider merely possible improvements to the existing statutory structure. Subsequently discussion with the full Criminal Justice Committee produced a consensus sentiment that the ERRRS Subcommittee should adopt a bold approach to effectuating change in accord with the “swing for the fences” vision President Keith Faber set forth for the Criminal Justice Recodification Committee. The Chair of the ERRRS Subcommittee, Professor Douglas Berman, offered to draft an initial ERRS “mission statement” and a subsequent concept paper that would draw on national trends, peer-state developments, and public policy advocacy to begin the process of proposing a revised 21st Century approach to these issues for full Commission consideration.

Mission Statement

Ohio and other states have long provided various means for former offenders to seal or expunging their criminal records. But there is new urgency for strengthening and expanding such laws because: (1) expanded criminalization at the local, state and federal levels has dramatically increased the number of citizens saddled with criminal records, (2) expanded use of collateral sanctions at the local, state and federal levels has dramatically increased the impact and consequences of having even a minor criminal record, (3) technological advances have made it far easier and more common for official and non-official entities to store criminal records and make them readily accessible to various parties, and (4) empirical research and anecdotal evidence suggests that the burdens of even minor criminal history can be detrimental to former offenders obtaining employment and other services that are proven to reduce the likelihood of recidivism.

As detailed in a recent report from the Vera Institute of Justice, states around the nation are recognizing and responding to these modern realities: from “2009 through 2014, forty-one states and the District of Columbia enacted 155 pieces of legislation to mitigate the burden of collateral consequences for people with certain criminal convictions.” Ram Subramanian, Rebecka Moreno & Sophia Gebreselassie, *Relief in Sight? States Rethink the Collateral Consequences of Criminal Conviction, 2009-2014*, at 4 (Dec. 2014). States have pursued various legal reforms in this arena, though many officials and advocates continue to express concern that recent legislative activity is still too often too narrowly tailored as to which offenders and offenses are impacted. With these realities and concerns in mind, the Expungement/Rights Restoration/Record Sealing Subcommittee is committed to exploring and drafting reform proposals that would build and expand on these efforts in order to now “flip the norm” with respect to criminal records in Ohio --- i.e., to propose new laws and procedures that would provide, subject only to a few narrowly tailored exceptions, for presumptive or automatic expungement or sealing of nearly all criminal records after a certain period of law-abiding behavior.